

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

RICHARD BRADLEY,

Plaintiff,

vs.

SHERIFF MARTY FISHER, AND
UNNAMED DETENTION OFFICERS,

Defendants.

No. C07-2033-EJM

ORDER

This matter is before the court on plaintiff's application to proceed in forma pauperis and Motion to Issue Summons, filed May 25, 2007, and June 7, 2007, respectively. Application to Proceed in Forma Pauperis granted. Motion to Issue Summons denied. Dismissed.

Based on the application and certificate of inmate account, in forma pauperis status shall be granted. 28 USC §1915. The Clerk of Court shall be directed to file the complaint without prepayment of the filing fee. Given his current financial status, plaintiff shall be required to submit an initial partial filing fee of \$73.27, and shall thereafter submit monthly payments of 20 percent of the preceding month's income credited to his inmate account until the \$350.00 filing fee is paid. 28 USC §1915(b)(1)(B). The agency having custody of the plaintiff shall forward payments

from his inmate account to the Clerk of Court each time the amount in the account exceeds \$10 until the filing fee is paid. 28 USC §1915(b)(2).

Currently confined at the Federal Correctional Institution in Pekin, Illinois, plaintiff brings this action pursuant to 42 USC §1983 to redress the alleged deprivation of his constitutional rights while incarcerated at the Fayette County Jail in West Union, Iowa.¹ The court has jurisdiction pursuant to 28 USC §§1331 and 1343.

As the court understands plaintiff's Complaint, it appears that following a meal at the Fayette County Jail one of the defendants directed a group of inmates to individually pick up food trays and hand them to the defendants. Following the inmates' repeated refusal to follow the directive, defendants threatened plaintiff and perhaps others with a "tazer," upon which the inmates complied with the directive. The inmates were then instructed to go to their cells.

Plaintiff has not set forth how these events violated his constitutional rights, and no such violation is apparent to the court. This matter shall be dismissed as frivolous. 28 USC §1915. Due to the court's disposition of this matter, plaintiff's Motion to Issue Summons shall be denied as moot.

¹While plaintiff checked a box on his Complaint form indicating the action is brought pursuant to 28 USC §1331, upon review of the Complaint it appears the action is more properly brought pursuant to 42 USC §1983.

It is therefore

ORDERED


1. Plaintiff's application to proceed in forma pauperis is granted. The Clerk shall file the complaint without prepayment of the filing fee.

2. Plaintiff shall submit a partial filing fee of \$73.27, and shall thereafter submit monthly payments of 20 percent of the preceding month's income credited to his account until the \$350.00 filing fee is paid.

3. The agency having custody of plaintiff is directed to forward payments from his inmate account to the Clerk of Court (including the above referenced partial filing fee) each time the amount in the account exceeds \$10 until the filing fee is paid.

4. Dismissed. Plaintiff's Motion to issue summons denied as moot.

June 27, 2007.


Edward J. McManus, Judge
UNITED STATES DISTRICT COURT

**TO: WARDEN/ADMINISTRATOR
Pekin FCI, Pekin, Illinois**

NOTICE OF COLLECTION OF FILING FEE

You are hereby given notice that Richard Bradley, #09666029, an inmate at your facility, filed the following lawsuit in the United States District Court for the Northern District of Iowa: *Bradley v. Fisher, et al.*, Case No. C07-2033-EJM. The inmate was granted in forma pauperis status pursuant to 28 U.S.C. § 1915(b), which requires partial payments of the \$350.00 filing fee. Plaintiff has been assessed an immediate partial filing fee of \$73.27, which you shall forward to the Clerk of Court forthwith. 28 U.S.C. § 1915(b)(1). Additionally,

. . . [the plaintiff] shall be required to make monthly payments of 20 percent of the preceding month's income credited to [his] account. The agency having custody of the [plaintiff] shall forward payments from [his] account to the clerk of court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). You must monitor the account and send payments to the Clerk of Court according to the system provided in 28 U.S.C. § 1915(b)(2).

Please make the appropriate arrangements to have these fees deducted and sent to the court as instructed.

/s/ Dianne Eveland

Pridgen J. Watkins
U.S. District Court Clerk
Northern District of Iowa